

# Ethics News

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## Governor Appoints Ethics Director

Mary Lee Comer, a former Hendricks County Superior Court judge, was appointed April 11 by Governor Mitch Daniels to serve as the Director of the State Ethics Commission. Ms. Comer succeeds Tim McClure who left the Commission in January of this year.

Before coming to the Commission, Ms. Comer served four years as a State of Indiana senior judge. She is past president of the Indiana Judges Association, a former member of the Danville Community School Foundation and a former high school English teacher.

Ms. Comer earned her bachelor of science degree in education from Indiana University-Purdue University Indianapolis. Her law degree is from the Indiana University School of Law at Indianapolis. Ms. Comer also is a graduate of the Indiana Judicial College.

Director Comer will report to the state's Inspector General, David Thomas, who is responsible for pursuing fraud, waste and abuse in state government.

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## Need Advice?

Go to the Ethics Commission's Web site at [www.in.gov/ethics](http://www.in.gov/ethics) and click on *Request for Advice*, which can be found at the bottom of the home page. By submitting your request online, it will go directly to the Commission's director who will reply to your request.



## Recent Enforcement Proceedings

The State Ethics Commission approved the following reports on April 14, 2005.

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### Case 04-C-4

#### Facts:

A contractor with the state of Indiana paid a \$40,000 settlement for violating the State ethics gift rule. Covansys Corporation had been doing business with the Indiana Family and Social Services Administration (FSSA) since 1996. During the calendar years 2000 to 2003 inclusive, Covansys spent approximately \$2,150 on meals and entertainment for FSSA employees. The cost of these meals was recorded in corporate records as business expenses.

One such employee who had participated in the selection process of Covansys as the provider for computer services to FSSA was sanctioned for accepting his share of the meals.

#### Rule(s) Violated:

[40 IAC 2-1-6\(a\)](#)

#### Sanctions:

A. A written reprimand to be issued by the employee's supervisor.

B. Completion of ethics training and attendance at ethics training every two years.

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### Case 04-C-13

#### Facts:

A superintendent at a Department of Correction (DOC) Facility accepted a hat valued at \$20.00 from two employees of Prison Health Services (PHS). PHS has a contract with the DOC to provide the services of physicians, psychologists, nurses, and health care administrators to DOC facilities. Accordingly, PHS has a business relationship with DOC. The superintendent also accepted two meals from PHS employees valued at \$9.99 and \$6.69.

#### Rule(s) Violated:

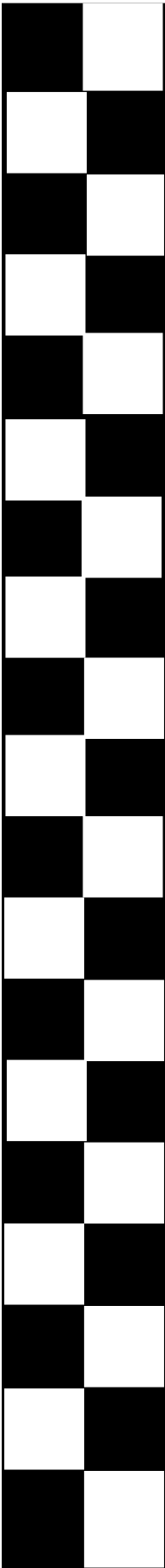
[40 IAC 2-1-6](#) and [Executive Order 04-08](#)

#### Sanctions:

A. A civil penalty of One Hundred Dollars (\$100.00) to the State Ethics Commission.

B. A written reprimand from his supervisor following the Commission's issuance of a final report in this matter.

C. Attendance at a classroom ethics training sponsored by the State Ethics Commission.



## Case 04-C-14

### Facts:

A state supervisor used state time and the state email system to receive updated information regarding his ongoing results in a *Fantasy Football* league, and to communicate with students he taught at a local university.

The supervisor directed subordinates to use state time and state equipment for purposes unrelated to official state business.

The superintendent accepted two personal loans from a person who was employed by a company doing business with his agency.

The supervisor's agency terminated him for the above actions.

### Rules Violated:

[40 IAC 2-1-9\(e\)\(f\) and \(g\)](#)

### Sanctions:

A. A civil penalty of Two Hundred Dollars (\$200.00) to the State Ethics Commission.

B. Agreement not to seek employment with the Executive Branch of Indiana State Government for a period of four years starting from the date of the issuance of this final report.

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## Case 04-C-23

### Facts:

A state employee accepted greens fees and meals from two companies that were seeking a business relationship with the employee's state office. One of the companies had an existing business relationship with the state office.

### Rule(s) Violated:

[40 IAC 2-1-6\(a\) and \(b\)](#)

### Sanctions:

A. Civil penalty of Seven Hundred and Fifty Dollars (\$750.00) to the State Ethics Commission.

B. Attend an *Ethics for Supervisors and Managers* Classroom Training sponsored by the State Ethics Commission.

C) In addition to the sanctions set forth above, the state employee has volunteered, on his own accord, to repay the two companies for the amount of the greens fees and dinners set forth above.

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### Staff Advice

This article briefly reviews questions recently addressed by the Ethics Commission staff. The advice is not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your [agency Ethics Officer](#) or the State Ethics Commission.

**NOTE:** *Please be advised that the opinions in these answers merely interpret and apply the State Ethics Commission's laws, regulations, and policies. The fact scenarios presented in these questions could possibly violate other agency laws, regulations, rules, or policies.*

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**Q.** Newly appointed, high-level officials at a state agency would like the agency to pay for their personal cell phones, as opposed to using state-issued cell phones. This is because they do not want to carry two cell phones. Can this be done?

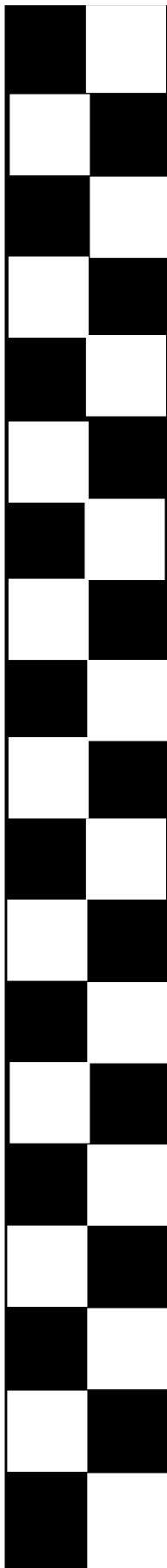
**A.** If state funds are going to be used to pay for personal cell phones, then the agency has to implement a written policy allowing this to happen. The agency would have to consider the cost and benefit of such a policy. For example, when selecting a cell phone use agreement (e.g., allowable minutes per month), the agency would not be able to monitor personal calls v. business-related calls. Additionally, the agency would have to ensure that appropriate paperwork was completed before a cell phone user left state government.

There is precedent for the state paying for personal use of state equipment (e.g., an agency allowed hearing officers that worked out of their homes to access their state paid Internet cable modem for personal use, because it didn't cost the state any additional money).

Be aware, unless a written policy is implemented at the agency regarding this matter, the agency officials will be in violation of the ethics rules when the agency pays the invoices for personal cell phones.

**Q.** The Director of a County Office of Family and Children (OFC) was the guest speaker at a special ceremony recognizing the honor students at a local high school. The Director appeared in his official capacity as an employee of FSSA. Can the Director accept a \$25 honorarium for his speech?

**A.** The Director cannot *personally* accept an honorarium for a speech he made in his official capacity. However, he could accept an honorarium on behalf of the State of Indiana in the following manner: the check should be made payable to the State of Indiana, and his agency should forward the check to the Treasurer of State to be deposited into the State's General Fund.



**Q.** Are state agencies permitted to pay for continuing legal education (CLE) classes and/or annual license fees for state attorneys?

**A.** There are no State Budget Agency Financial Management Circulars addressing these issues. However, the State Board of Accounts (SBA) position regarding these matters is as follows: During an SBA audit, an SBA auditor would not take exception to a state agency paying for any CLE seminars and/or annual license fees if an attorney was actually working in an attorney position for the agency. The SBA would not view this as inappropriate personal use of state funds. However, the SBA would take exception to an agency paying for CLE seminars and/or annual license fees if the attorney was employed in a non-attorney position (e.g., deputy commissioner). The only time an agency could pay for a CLE seminar for an attorney employed in a non-attorney position is if the CLE seminar was directly related to the work performed by the attorney in a non-attorney position.

**Q.** A state employee would like to explore going to work for two contractors whom she manages on a day-to-day basis. What can she do and not do under these circumstances?

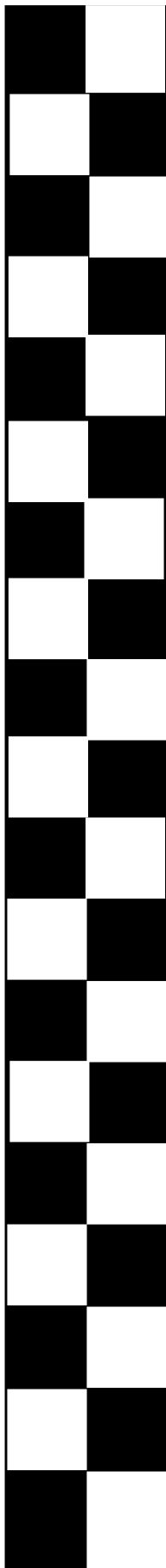
**A.** Under [Executive Order 05-12](#), the employee couldn't go to work for the contractors for one year after leaving state government, unless she got a waiver of the Executive Order from the Governor's Office and the Inspector General. The [post-employment restriction statute](#), coupled with Executive Order 05-12, precludes her from working on the contracts for the duration of the contracts, unless she receives a waiver from her agency head. If the employee chooses to seek a waiver, she should not approach the companies about employment unless she first had her supervisor screen her from any decisions regarding the companies. Failure to do this could result in a violation of the [financial conflict of interest statute](#).

**Q.** Officials of a state agency attend bi-annual meetings of water supply utilities which are regulated by another state agency. The agency in question provides information to this association, and usually sets up a display at the association's bi-annual meeting. May these agency officials accept complimentary registrations to the meetings, worth approximately \$50 per person and a meal, which is generally included in the registration package?

**A.** The meal could be accepted under an exception to the gift rule (40 IAC 2-1-6(b)(2)(C): a public meeting to which more than 25 people are invited, and the meeting has a formal program that the employee is attending to assist him or her in performing official duties.) The officials could also accept the complimentary registrations by having their ethics officer complete an [on-line waiver](#) of the gift rule.

*To think well and to consent to obey someone giving good advice  
are the same thing.*

Herodotus (c. 484–424 B.C.)  
Greek historian



## Going to the Race?



As the Memorial Day Weekend approaches, state employees may be offered free tickets and passes to the “Indianapolis 500” and related events. May state employees accept these tickets or invitations? The question should be treated as any other gift issue.

“500” tickets and passes offered at no charge *are* gifts and, therefore, should be examined under 40 IAC 2-1-6(a) and Executive Order 04-08. Under this rule and Executive Order, an employee can determine the proper course of action. When in doubt, check with your Ethics Officer.

If the gift giver has a business relationship with your agency, you may not accept the gift in any amount from that person. (A person has a business relationship with an agency if that person is seeking, obtaining, establishing, maintaining or implementing a financial interest in a contract or purchase with the agency, or a license or permit requiring the exercise of discretion by the agency 40 IAC 2-1-4(d)).

If there is no business relationship between the agency and the gift-giver, the state employee may accept the gift without written permission. Remember to consult your own agency’s ethics rules; these rules, including an agency’s gift rule, may be more strict than the rules enforced by the State Ethics Commission.

## Please Note

Ethics orientation is mandatory for all new employees and refresher training is mandatory every two years thereafter. If you have not had ethics training, check the schedule of classes below. You also may take the training online at <http://www.in.gov/ethics/training/orientation/index.html>.

### 2005 Ethics Classes

#### Ethics Orientation

(10:00 - 11:00 a.m.)  
All classes in CC 14

June 8; August 23;  
October 18; December 5

#### Supervisors and Managers

(10:00 - 11:30 a.m.)  
All classes in CC 17

June 9; August 25;  
October 20; December 8

Classes are in the State Conference Center, Indiana Government Center South. Room assignments may change. Please check directory on day of class.

To register, call (317) 232-3850 or visit our  
Web site at [www.ethics.IN.gov](http://www.ethics.IN.gov)

Remember. . .



**Memorial  
Day**